



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 26, 1995

Ms. Susan O. Bradshaw  
Senior Attorney  
The University of Texas System  
Office of General Counsel  
201 West Seventh Street  
Austin, Texas 78701-2981

OR95-222

Dear Ms. Bradshaw:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31476.

The University of Texas M.D. Anderson Cancer Center (the "center") received an open records request from one of its staff physicians for a copy of "all files and all documents relating to, concerning, or referencing me, including my confidential personnel file kept by anyone at M.D. Anderson." You state that the center is making available to the requestor most of the requested information. You seek to withhold, however, several documents pursuant to the Open Records Act. Specifically, you contend that section 552.111 of the Government Code excepts from required public disclosure four memoranda created during the investigation of staff complaints and allegations of insubordination against the requestor.

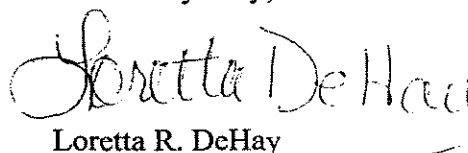
Section 552.111 of the Government Code excepts from required public disclosure interagency and intra-agency memoranda and letters, but *only* to the extent that they contain advice, opinion, or recommendation intended for use in the entity's policymaking process; purely factual information is not excepted from disclosure under this exception. Open Records Decision No. 615 (1993) at 5. The purpose of this section is "to protect from public disclosure advice and opinions *on policy matters* and to encourage frank and open discussion within the agency in connection with its decision-making processes." *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.) (emphasis added). In Open Records Decision No. 615 (1993) at 5, this office concluded that:

to come within the [section 552.111] exception, information must be related to the *policymaking* functions of the governmental body. An agency's policymaking functions do not encompass routine internal administrative and personnel matters . . . . [Emphasis in original.]

After reviewing the information at issue, we believe the memoranda pertain solely to an internal personnel matter. Section 552.111 of the Government Code therefore does not apply to this information.<sup>1</sup> Consequently, the four memoranda constitute public information and must be released in their entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Government Section

LRD/RWP/rho

Ref.: ID# 31476

Enclosures: Submitted documents

cc: Elias J. Anaissie, M.D.  
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The University of Texas M.D. Anderson  
Cancer Center  
1515 Holcombe Boulevard  
Houston, Texas 77030  
(w/o enclosures)

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<sup>1</sup>You suggest that this office should reconsider its interpretation of section 552.111 in Open Records Decision No. 615 (1993) in light of a July 25, 1994 ruling in *Klein Independent School District v. Lett*, No. 93-061897 (80th Dist. Ct., Harris County, Tex., July 25, 1994). An unpublished opinion, particularly that of a district court, has no authoritative value. *Wheeler v. Aldama-Luebbert*, 707 S.W.2d 213, 216 (Tex. App.--Houston [1st Dist.] 1986, no writ); *see also* Tex. R. App. P. 90(i) ("Unpublished opinions shall not be cited as authority by counsel or by a court."). For this reason, this office generally does not consider unpublished rulings in making determinations under the Open Records Act. This office therefore continues to adhere to Open Records Decision No. 615 (1993).